

BEFORE THE OFFICE OF CAMPAIGN FINANCE
DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS
FRANK D. REEVES MUNICIPAL BUILDING
2000-14th STREET, N.W., SUITE 420
WASHINGTON, D.C. 20009
(202) 671-0550

IN THE MATTER OF)	DATE: May 2, 2005
)	
Nancy Alper)	DOCKET NO.: 04F-375
Assistant Attorney General)	
Office of the Attorney General)	
5306 Goldsboro Road)	
Bethesda, Maryland 20817)	

ORDER

Statement of the Case

This matter came before the Office of Campaign Finance (hereinafter OCF) Office of the General Counsel following a determination by its Public Information and Records Management Division, that pursuant to D.C. Official Code §1-1106.02 (2001 Edition), Nancy Alper, Assistant Attorney General, Office of the Attorney General (OAG), failed to timely file, a Financial Disclosure Statement for calendar year 2003, on or before May 15, 2004 as required by D.C. Official Code §1-1106.02, and also failed to file on or before the OCF sanctioned extended filing deadline of June 21, 2004.

By Notice of Hearing, Statement of Violations and Order of Appearance dated February 9, 2005, OCF ordered Nancy Alper (hereinafter respondent), to appear at a scheduled hearing on February 23, 2005 and show cause why she should not be found in violation of the D.C. Campaign Finance Reform and Conflict of Interest Act of 1974, as amended by D.C. Official Code §§1-1101.01 et seq., and fined accordingly.

Summary of Evidence

OCF alleges that the respondent failed to timely file the statutorily required Financial Disclosure Statement for calendar year 2003, on or before June 21, 2004.

On February 23, 2005, the respondent appeared at the scheduled hearing and testified that she was unaware of the filing requirement. Respondent stated that she was aware of the requirement to file Form 35 (Confidential Statement of Employment and Financial Interests) with her agency. Respondent stated that she had no recollection of receipt of notices to file from OCF that were addressed to her home, and that she changed Sections within OAG. Respondent was appointed to the Legal Service in September

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2002. Respondent filed the required 2003 Financial Disclosure Statement, and the 2004 Financial Disclosure Statement at the conclusion of the hearing.

Findings of Fact

Having reviewed the allegations and the record herein, I find:

1. Respondent was appointed to the Legal Service in September 2002.
2. Respondent was required to file a Financial Disclosure Statement with OCF for calendar year 2003, on or before June 21, 2004.
3. Respondent filed the required Financial Disclosure Statement with OCF on February 23, 2005.
4. Respondent provided a credible explanation for the filing delinquency because she believed she was confused concerning the requirement to file Form 35 and OCF's Financial Disclosure Statement.
5. Respondent is a first-time required filer.
6. Respondent is currently in compliance with the statute.

Conclusions of Law

Based upon the record provided by OCF, I therefore conclude:

1. Respondent violated D.C. Official Code §1-1106.02.
2. The penalty established at D.C. Official Code §1-1103.05(b)(3), and 3DCMR §§3711.2(aa), 3711.2 and 3711.4 for failure to timely file a Financial Disclosure Statement required by D.C. Official Code §1-1106.02 is a fine of \$50.00 per day for each business day subsequent to the due date.
3. In accordance with D.C. Official Code §1-1103.05(b)(3), the respondent may be fined a maximum of \$2,000.00 for failing to timely file a Financial Disclosure Statement.
4. For good cause shown pursuant to 3DCMR §3711.6, the Director of Campaign Finance (Director) may modify, rescind, dismiss or suspend any fine.

5. Respondent's explanation for failing to timely file, in that she was confused about the requirement to file Form 35 and OCF's Financial Disclosure Statement, coupled with her first-time filer status, constitute good cause for suspension of the fine.

Recommendation

In view of the foregoing and information included in the record, I hereby recommend that the Director suspend the imposition of the fine in this matter.

Date

Jean Scott Diggs
Hearing Officer

Concurrence

In view of the foregoing, I hereby concur with the Recommendation.

Date

Kathy S. Williams
General Counsel

ORDER OF THE DIRECTOR

IT IS ORDERED that the fine in this matter be hereby suspended.

Date

Cecily E. Collier-Montgomery
Director

SERVICE OF ORDER

This is to certify that I have served a true copy of the foregoing Order, by regular mail, on respondent on May 2, 2005.

cc: Robert Spagnoletti, Attorney General
Office of the Attorney General
1350 Pennsylvania Avenue, NW
Suite 407
Washington, DC 20004

Michael Hailey, Chief of Staff
Office of the Attorney General
1350 Pennsylvania Avenue, NW
Suite 407
Washington, DC 20004

NOTICE

Pursuant to 3DCMR §3711.5 (1999), any fine imposed by the Director shall become effective on the 16th day following the issuance of a decision and order, if the respondent does not request an appeal of this matter. If applicable, within 10 days of the effective date of this order, please make a check or money order payable to the D.C. Treasurer, c/o Office of Campaign Finance, Suite 420, 2000-14th Street, N.W., Washington, D.C. 20009.